

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ALBERT J. GOLDBERGER,

Plaintiff,

v.

No. 1:21-cv-00199-KG-SMV

U.S. DEPT. OF THE TREASURY
INTERNAL REVENUE SERVICE,

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER comes before the Court on *pro se* Plaintiff's failure to timely file an amended complaint.

Plaintiff alleges that he "timely filed" a "copy" of his "2014 IRS tax return" in April 2018, "claiming a refund of \$5,500.00." Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 at 2, Doc. 1, filed March 8, 2020 ("Complaint"). The Internal Revenue Service ("IRS") informed Plaintiff that Plaintiff had filed a copy of his 2014 tax return instead of the original. After Plaintiff submitted his original 2014 tax return to the IRS in September 2018, the IRS denied Plaintiff's claim for a refund stating the deadline to claim a refund expired on April 15, 2018. *See* Complaint at 2. Plaintiff now seeks a tax refund of \$5,500.00.

United States Magistrate Judge Stephan M. Vidmar informed Plaintiff that the Complaint failed to state a claim upon which relief can be granted because it does not state with particularity, or reference the relevant statutes or regulations, sufficient information showing that Plaintiff is entitled a tax refund or contain any factual allegations showing that the denial of a tax refund unfairly deprived Plaintiff of a tax refund. *See* Doc. 4, filed March 15, 2021. Judge Vidmar granted Plaintiff an opportunity to file an amended complaint and notified Plaintiff that failure to

timely file an amended complaint may result in dismissal of this case. Plaintiff did not file an amended complaint by the April 5, 2021, deadline.

IT IS ORDERED that this case is DISMISSED without prejudice.


UNITED STATES DISTRICT JUDGE